

## The Legislative Fiscal Division

Presents:

Profile of...

## Office of the State Auditor

State of Montana



Agency Profile

This agency profile will discuss...

- structure and funding
- primary functions and
- historical expenditures

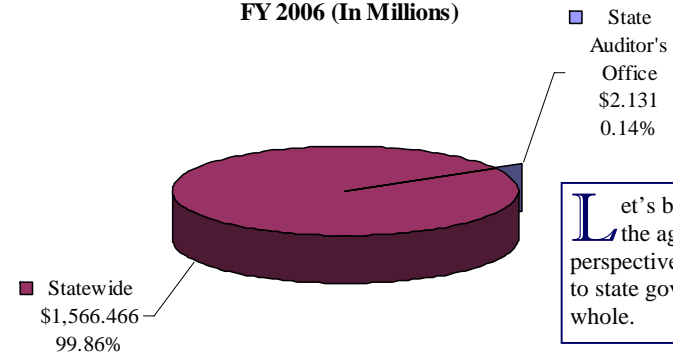
The profile also includes information on how decisionmakers can effect change in the agency's expenditures along with a listing of pertinent statistics. For an explanation of terms used in this profile, consult the "Background on the Agency Profiles" at: <http://leg.mt.gov/css/fiscal/default.asp>

Sept. 2006

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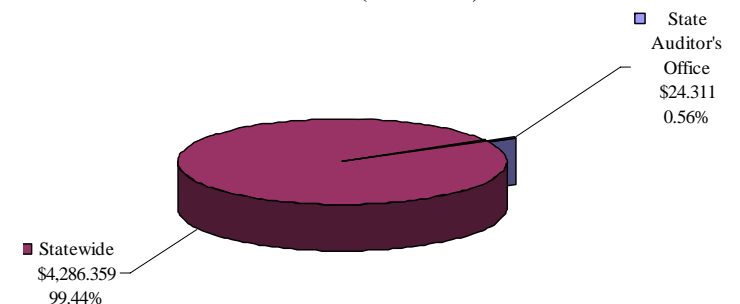


General Fund Statewide Comparison  
FY 2006 (In Millions)



Let's begin by putting the agency's size in perspective by comparing it to state government as a whole.

Total Funds Statewide Comparison  
FY 2006 (In Millions)



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Legislative Fiscal Division

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Section A  
General Government & Transportation



## What the Agency Does

The State Auditor is the Commissioner of Insurance and the Commissioner of Securities. The auditor is charged with licensing, registering, and regulating insurance companies and producers, securities issuers, salespeople, broker-dealers, investment advisers, and investment adviser representatives within the state. The auditor also serves as a member of the Board of Land Commissioners and the Crop Hail Insurance Board. The auditor is an elected position within state government.



## How Services Are Provided

The State Auditor provides these services through a structure consisting of three divisions with the following functions:

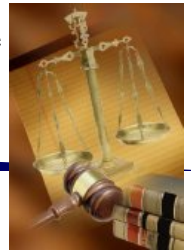
- Central Management is responsible for the administrative, personnel, budgeting and accounting functions for the State Auditor's office. They also provide support in fulfilling the duties as a member of the state land and hail insurance boards, and serve as a conduit for the distribution of the two "pass through" programs: the federally funded Forest Reserve Shared Revenue program, and the Fire and Police Retirement Program.
- The Insurance division regulates the insurance industry in Montana and oversees two insurance programs, the Montana Comprehensive Health Association premium assistance program and the Small Business Insurance Pool (Insure Montana). This division has five sub-divisions:
  - Policyholder Services Bureau is responsible for resolving insurance consumer inquiries and complaints involving agents, coverage, and companies.
  - Investigations Bureau investigates insurance code and rule violations, including possible criminal violations, and refers cases to county attorneys for prosecution.

## Statewide Factors With Impact

In addition to the factors above, a number of factors common to many agencies will also impact changes in expenditures over time.

The Office of State Auditor comprises people providing service for insurance and security companies and individuals doing business in Montana, as well as Montana consumers of their products. Personal service costs are the primary influence that drives expenditures. These factors include the state pay plan and benefits, workers' compensation, and unemployment insurance.

Other factors driving expenses include utilities and changes in statewide fixed costs such as inflation/deflation and the cost to maintain buildings and technology.



## Statutory References

The primary statutory references defining duties and responsibilities of the department are found at the following locations.

The Office of the State Auditor is authorized under Article VI of the Montana Constitution, and is funded from state special revenue generated by fees and taxes as identified and defined in 33-2-705 – 708, MCA. In accordance with 30-1-115, MCA, unspent collections from security licenses and permits are deposited into the general fund.

The office manages the Forest Reserve Shared Revenue account under 17-2-211, MCA, and the Fire and Police Retirement Program under 33-2-705, and 50-3-109, MCA, the Tobacco Settlement funds under 17-6-606, MCA.

The office's investigation units are recognized under 44-5-401, MCA.

17-6-606, MCA authorizes the Office of the State Auditor's oversight of the Montana Comprehensive Health Association premium assistance program for qualifying, low-income Montanans, which is funded with tobacco settlement fund earnings.

## How the Legislature Can Effect Change



In order to change expenditure levels and/or agency activity, the legislature must address one or more of the following basic elements that drive costs.

The Office of State Auditor addresses its mandated duties with state employed FTE. Activity for this agency depends upon change in the insurance and security industry, complaints from consumers.

In order to change expenditure levels and/or activity, the legislature might address:

- Laws governing how the insurance and security industries do business in Montana, and how the office conducts licensing, regulation, examinations, and responds to the consumer;
- Laws governing the number of insurance and security companies and individuals doing business in Montana
- Laws governing amount and collection of fees and taxes relating to insurance and securities;
- Policy on how the agency handles pass-through accounts
- Policy on how the agency participates in the Montana Comprehensive Health Association premium assistance program, the Small Business Insurance Pool, and the Health Insurance Tax Credit; and
- The code of ethics for insurance and security industries doing business in Montana.

The legislatures less likely to control:

- The number of registered complaints and related court dockets
- Federal legislation impacting the insurance and securities industry
- Telephone or web-based inquiries from consumers
- Initiatives or legislation responding to citizen action
- The health of the national economy

- Examinations Bureau is responsible for monitoring the financial solvency of insurance companies, collecting premium taxes and company fees, and auditing insurance company annual statements.
- Rates and Forms Bureau is responsible for reviewing form filings and rate filings to ensure compliance with the applicable insurance code.
- Licensing Bureau is responsible for licensing and providing continuing education to insurance agents, agencies, and adjusters.
- Securities Division is responsible for the administration and enforcement of the Securities Act of Montana and in particular, for the registration of securities issuers, sales people, broker-dealers, investment advisers, and investment adviser representatives. The division is responsible for the investigation of unregistered and fraudulent securities transactions. The division has sole jurisdiction for investment advisor firms with assets under \$25 million. This division has two sub-divisions:
  - Investigation/Examination Bureau investigates securities code and rule violations, including possible criminal violation, and refers cases to county attorney for prosecution.
  - Registration and Licensing Bureau is responsible for the registration of securities issuers, salespeople, broker-dealers, investment advisor, and investment adviser representatives.

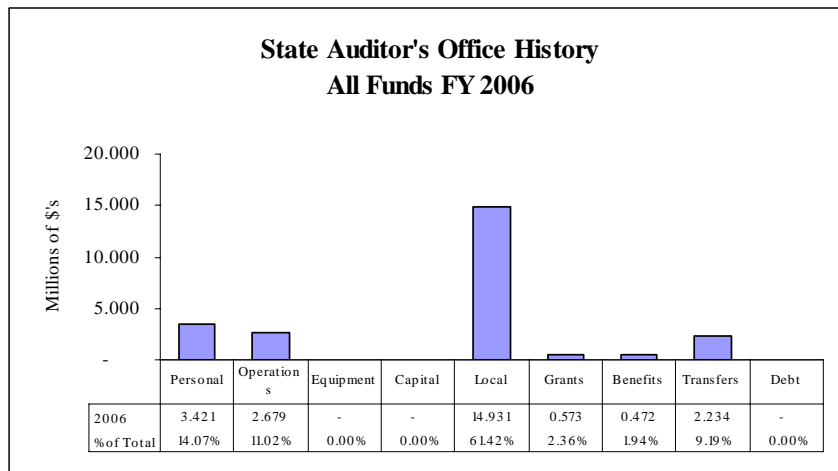
The State Auditor conducts the business of the three divisions through employment of FTE and contracted services. Personal services account for 67 percent of the \$5.1 million it takes to operate the program, while consultant and professional services account for 8 percent.



The following chart shows personal services at 14 percent because the State Auditor is a conduit for four “pass through” programs:

- The Forest Reserve Shared Revenue, and the Fire and Police Retirement Program representing about \$12.4 million
- The Fire and Police Retirements Program funds representing about \$2.1 million in FY 2006. This amount is underreported in FY 2006 because the State Auditor’s Office did not accrue \$15.7 million in pension fund payments which would bring the total to \$17.8 million.
- Insurance premium assistance for low-income Montanans representing about \$1.2 million per year
- Health insurance tax credits are shown as \$1.8 million in expenditures in FY 2006.

The following chart displays these programs in the Operation, Local Assistance and Grants categories.



## Agency Functions, State Purposes, & Customers Served

The agency is structured to perform certain functions in support of general state government purposes. The following lists the major functions, purpose of provision of the functions, and primary customers served.

<i>State Purposes</i>	<i>Major Agency Functions</i>	<i>Customers</i>
<b>Consumer/Citizen Protection</b>	Examinations: administer and account for related revenue and expenses	Insurance agents
	Administration of insurance functions	Insurance functions
	Investigate insurance complaints	Insurance consumers and agents
	Licensing for insurance companies and sales persons: administer and account for related revenue and expenses	Insurance companies and consumers
	Examination of insurance policies	Insurance companies/consumers
	Review rates and forms—insurance industry	Insurance companies/consumers
	Review and report on captive insurers	Captive insurers/consumers
	Administration of Securities Act in Montana	Security dealers and brokers/consumers





## Reasons for Expenditure Growth/Change

**General Fund** – The slight decline from FY 1999 through FY 2001 is governed by the agency's funding switch in FY 2000 from general to state special fund to better reflect the way that the agency operates. The Fire and Police Retirements Program are the only general fund expenditures made by the State Auditor's Office. The sharp decline in general fund in FY 2006 is because the State Auditor's Office did not record an accrual of \$15.7 million for the Fire and Police Retirement Programs.

**State Special Fund** – the expenditures funded by state special funds decreased by 93.4 percent between 1997 and 1998 due to a funding switch between the state special revenue fund and the general fund for the fire and police retirement payments. The funds increased 13.7 percent between FY 2005 and 2006 due to the addition of the Small Business Insurance Pool and the Health Insurance Tax Credit Program.

**Federal Fund** – the agency handles the Forest Reserve Shared Revenue program pass through money, but does not utilize federal funds for program support. The variations in the federal funds are the result of changes in the federal appropriation for the program.



## How Services Are Funded

### Insurance

Insurance Premium Taxes are levied on the net premiums or gross underwriting profit for each insurance company operating in Montana.

As of December 2004, there are two tax rates, the proceeds of which are deposited into the general fund and disbursed by the State Auditor in support of: Municipal Police Officers' Retirement System; Firefighters' Unified Retirement System; the Volunteer Fighters' Compensation Act; local fire department relief associations; municipalities with police department trust funds; and local police pension funds for supplemental benefits. Funding for this program was \$17.8 million for FY 2006. As noted above, the agency did not record the accrual for these expenditures in FY 2006 so the costs for this distribution are significantly underreported. The tax rates are:

- 2.75 percent tax on net premiums or gross underwriting profit on policies sold in Montana
- 2.5 percent tax on the fire portion of net premiums for selected risks, called the fire insurance premium tax.

The Fire and Police Retirements Program funds are from general insurance (33-2-705, MCA) and fire insurance premium taxes (50-3-109, MCA).

Insurance License Fees are deposited into the state special revenue fund for use by the State Auditor. For a complete list of the fees, please see the Insurance Tax and License Fees section of the Legislative Revenue Analysis. In FY 2006, \$3.521 million was available for use by the Office of State Auditor.

### Securities

Investment License Fees are assessed to investment advisors and companies for registration of securities and agents; registration of securities by notification; notice of federal filing of a federally secured security; and name changes. All fees except portfolio notice filing fees and examination charges are deposited to the general fund. In FY 2006, about \$5.6 million was deposited.





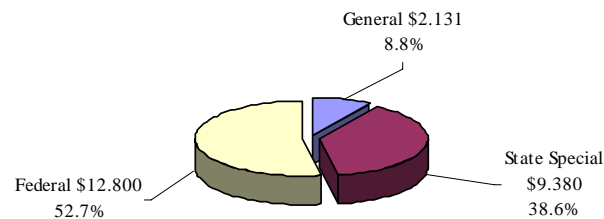
Portfolio notice filing fees and examination charges are deposited in a state special revenue account from which the State Auditor pays for expenses associated with the regulation of portfolio activities. In FY 2006, \$2.888 million was available. The excess in this account is transferred to the general fund throughout the year as a non-budgeted transfer. Since not all of the available funding was used, in FY 2006, \$2.234 million was transferred back to the general fund.

Tobacco Settlement Trust Proceeds support the Montana Comprehensive Health Association premium assistance program for qualifying, low-income Montanans.

Health and Medicaid Initiatives state special revenue funds support both the Small Business Insurance Pool and the Health Insurance Tax Credits Program. These funds are generated through taxes on cigarettes and other tobacco products.

The federal funding in the following chart refers to the pass through funds from the Forest Reserve Shared Revenue program, which generated \$12.8 million in FY 2006 for counties in which the forest reserve is situated.

**State Auditor's Office Funding History  
All First Level FY 2006**



## Related Data & Statistics

Element	1996	2006	Significance of Data
Insurers in the state	1,362	1,450	Increased workload and revenue
Insurance rate filings	73,00	4,285	Decreased workload and revenue
Licensed insurance agents	32,435	39,703	Increased workload and revenue
Insurance complaints	1,973	1,926	Increase in workload/possible money recovered
Policyholder telephone inquires	36,420	37,000	Decreased workload
Registered broker/dealers	57,718	57,291	Increased workload and revenue



## Expenditure History

**State Auditor's Office Funding History**

